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APPLICATION OF

**ROBERT A. WINNEY d/b/a THE
WATERWORKS COMPANY OF
FRANKLIN COUNTY**

CASE NO. PUE980057

For an increase in rates and charges

REPORT OF MICHAEL D. THOMAS, HEARING EXAMINER

July 31, 1998

By order entered on April 17, 1998, the Commission set this matter for hearing, directed an investigation of the Company's rates and charges, and assigned a Hearing Examiner to conduct all further proceedings on behalf of the Commission. The Commission's order required the Company to mail on or before May 4, 1998, by first-class mail, postage prepaid, a copy of the Commission's order to all customers, including customers paying the availability fee; the county administrator of Franklin County; and the chairman of the Board of Supervisors of Franklin County. The Commission's order further required the Company to file with the Clerk of the Commission on or before May 13, 1998, a certificate of mailing.

On July 1, 1998, the Commission's Staff filed a Motion to Dismiss. In support of its motion, the Staff argues that the Company failed to comply with the public notice requirement set forth in the April 17, 1998, order. The Staff argues that this matter should therefore be dismissed.

On July 6, 1998, a Hearing Examiner's Ruling was entered allowing the Company an opportunity to file a response to the Staff's Motion to Dismiss, and requiring any such response to be filed with the Clerk of the Commission.

On or about July 13, 1998, the Company mailed a letter to Staff counsel apparently intending the letter to be a response to the Staff's Motion to Dismiss. This letter was subsequently filed with the Clerk of the Commission on July 16, 1998. In this letter, the Company offered no explanation why it did not comply with the public notice requirement set forth in the Commission's order, nor did the Company request an opportunity to cure the defective notice.

Having considered the motion and the response thereto, I find that the Staff's Motion to Dismiss should be granted. The records of the Clerk of the Commission indicate that the Company failed to comply with the public notice requirement set forth in the Commission's April 17, 1998, order. The Company has not filed a certificate of mailing with the Clerk of the Commission as required by paragraph (13) of the Commission's order.

Accordingly, **I RECOMMEND** that the Commission enter an order dismissing this matter from the Commission's docket of active cases, and confirming that the rates and charges prescribed by the Commission in its Interim Order of February 27, 1998, in Case No. PUE970119, *Application of Robert A. Winney d/b/a The Water Works Company of Franklin County, For a certificate of public convenience and necessity authorizing the furnishing of water*, are the rates and charges currently in effect for the Company.

COMMENTS

The parties are advised that any comments (Section 12.1-31 of the Code of Virginia and Commission Rule 5:16(e)) to this Report must be filed with the Clerk of the Commission in writing, in an original and fifteen (15) copies, within fifteen (15) days from the date hereof. The mailing address to which any such filing must be sent is Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Any party filing such comments shall attach a certificate to the foot of such document certifying that copies have been mailed or delivered to all other counsel of record and any party not represented by counsel.

Respectfully submitted,

Michael D. Thomas
Hearing Examiner